
By: **Delegate McHale**

Introduced and read first time: February 14, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Firefighters and Emergency Medical Personnel - Procedural Guarantees**

3 FOR the purpose of providing that certain firefighters and emergency medical
4 personnel have certain rights; specifying the procedure to be followed at
5 interrogations or investigations of a firefighter or certain emergency medical
6 personnel; clarifying that certain superintendents, commissioners, or fire chiefs
7 of certain facilities retain the authority to regulate certain operation and
8 management by certain means; clarifying that certain supervisors retain the
9 authority to resolve certain minor infractions; providing for the construction of
10 this Act; providing that an employee may waive certain rights under certain
11 circumstances; defining certain terms; and generally relating to procedural
12 rights against certain firefighters and emergency medical personnel.

13 BY repealing and reenacting, with amendments,
14 Article - Labor and Employment
15 Section 4-601
16 Annotated Code of Maryland
17 (1999 Replacement Volume and 2002 Supplement)

18 BY adding to
19 Article - Labor and Employment
20 Section 4-604
21 Annotated Code of Maryland
22 (1999 Replacement Volume and 2002 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Labor and Employment**

26 4-601.

27 (a) In this subtitle the following words have the meanings indicated.

1 (B) "CHIEF" MEANS THE SUPERINTENDENT, COMMISSIONER, OR FIRE CHIEF
2 OF A COUNTY OR MUNICIPAL CORPORATION OR A UNIT OF A COUNTY OR MUNICIPAL
3 CORPORATION.

4 [(b)] (C) (1) "Employee" means a fire, emergency medical services,
5 paramedic, rescue, or support employee hired and compensated by a county or
6 municipal corporation or a unit of a county or municipal corporation.

7 (2) "Employee" does not include an employee who is on probationary
8 status upon entry into a fire fighting, rescue, paramedic, or emergency medical
9 services agency.

10 (D) "EMPLOYER" MEANS A COUNTY OR MUNICIPAL CORPORATION OR UNIT OF
11 A COUNTY OR MUNICIPAL CORPORATION THAT HIRES AND COMPENSATES FIRE,
12 EMERGENCY MEDICAL SERVICES, PARAMEDIC, RESCUE, OR SUPPORT EMPLOYEES.

13 [(c)] (E) (1) "Final decision" means a final disciplinary decision of a
14 personnel board, trial board, civil service commission, or statutorily established
15 review board by which an employee is suspended for not less than 30 consecutive days
16 or is terminated.

17 (2) "Final decision" does not include a decision reached through
18 arbitration under a collective bargaining agreement.

19 4-604.

20 (A) (1) WHENEVER AN EMPLOYEE IS UNDER INVESTIGATION OR
21 SUBJECTED TO INTERROGATION BY THE EMPLOYER FOR ANY REASON THAT COULD
22 LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL, THE INVESTIGATION OR
23 INTERROGATION SHALL BE CONDUCTED AS PROVIDED IN THIS SECTION.

24 (2) THE INTERROGATION SHALL TAKE PLACE AT THE FACILITY WHERE
25 THE INVESTIGATING OFFICER IS ASSIGNED, OR AT THE FACILITY THAT HAS
26 JURISDICTION OVER THE PLACE WHERE THE INCIDENT UNDER INVESTIGATION
27 ALLEGEDLY OCCURRED, AS DESIGNATED BY THE INVESTIGATING OFFICER.

28 (3) AN EMPLOYEE MAY NOT BE SUBJECTED TO INTERROGATION
29 WITHOUT FIRST RECEIVING WRITTEN NOTICE IN SUFFICIENT DETAIL OF THE
30 INVESTIGATION IN ORDER TO REASONABLY APPRIZE THE EMPLOYEE OF THE
31 NATURE OF THE INVESTIGATION.

32 (4) ALL INTERROGATIONS SHALL BE CONDUCTED AT A REASONABLE
33 TIME OF DAY, PREFERABLY WHEN THE EMPLOYEE IS ON DUTY, UNLESS THE
34 IMPORTANCE OF THE INTERROGATION OR INVESTIGATION IS OF THE NATURE THAT
35 REQUIRES IMMEDIATE ACTION.

36 (5) THE EMPLOYEE UNDER INVESTIGATION SHALL BE INFORMED OF
37 THE NAME, RANK, AND UNIT OR COMMAND OF THE OFFICER IN CHARGE OF THE
38 INVESTIGATION, THE INTERROGATORS, AND ALL PERSONS PRESENT DURING ANY
39 INTERROGATION.

1 (6) INTERROGATION SESSIONS SHALL BE OF REASONABLE DURATION
2 AND THE EMPLOYEE SHALL BE PERMITTED REASONABLE PERIODS OF REST AND
3 PERSONAL NECESSITIES.

4 (7) THE EMPLOYEE BEING INTERROGATED MAY NOT BE SUBJECTED TO
5 OFFENSIVE LANGUAGE OR OFFERED ANY INCENTIVE AS AN INDUCEMENT TO
6 ANSWER ANY QUESTIONS.

7 (8) IF A RECORDING OR TRANSCRIPT OF ANY INTERROGATION IS MADE,
8 THE EMPLOYEE UNDER INVESTIGATION SHALL BE ENTITLED TO A COPY WITHOUT
9 CHARGE.

10 (9) AN EMPLOYEE MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED,
11 DENIED PROMOTION OR SENIORITY, OR OTHERWISE DISCIPLINED OR
12 DISCRIMINATED AGAINST IN REGARD TO THE EMPLOYEE'S EMPLOYMENT, OR BE
13 THREATENED WITH ANY TREATMENT AS RETALIATION FOR OR BY REASON SOLELY
14 OF THE EMPLOYEE'S EXERCISE OF ANY OF THE RIGHTS GRANTED OR PROTECTED BY
15 THIS SECTION OR THE EMPLOYEE'S CONSTITUTIONAL RIGHTS.

16 (10) ALL QUESTIONS DIRECTED TOWARD THE EMPLOYEE UNDER
17 INTERROGATION SHALL BE ASKED BY AND THROUGH ONE INTERROGATOR DURING
18 ANY ONE INTERROGATING SESSION, CONSISTENT WITH PARAGRAPH (6) OF THIS
19 SUBSECTION.

20 (11) IF THE EMPLOYEE UNDER INTERROGATION IS UNDER ARREST, OR IS
21 LIKELY TO BE PLACED UNDER ARREST AS A RESULT OF THE INTERROGATION, THE
22 EMPLOYEE SHALL BE COMPLETELY INFORMED OF THE EMPLOYEE'S RIGHTS BEFORE
23 THE COMMENCEMENT OF THE INTERROGATION.

24 (12) (I) AT THE REQUEST OF THE EMPLOYEE UNDER INTERROGATION,
25 THE EMPLOYEE MAY BE REPRESENTED BY COUNSEL OR ANY REPRESENTATIVE OF
26 THE EMPLOYEE'S CHOICE WHO SHALL BE PRESENT AND AVAILABLE FOR
27 CONSULTATION AT ALL TIMES DURING THE INTERROGATION.

28 (II) THE INTERROGATION SHALL BE SUSPENDED NOT MORE THAN
29 10 DAYS UNTIL REPRESENTATION IS OBTAINED.

30 (13) THE EMPLOYEE UNDER INVESTIGATION SHALL BE FURNISHED WITH
31 A COPY OF THE INVESTIGATION FILE AND ANY EXCULPATORY INFORMATION, WITH
32 THE EXCLUSION OF:

33 (I) THE IDENTITY OF THE CONFIDENTIAL SOURCES;

34 (II) ANY NONEXCULPATORY INFORMATION; AND

35 (III) RECOMMENDATIONS AS TO CHANGES, DISPOSITION, OR
36 PUNISHMENT.

37 (14) THE EMPLOYEE SHALL BE FURNISHED WITH THE EXCULPATORY
38 INFORMATION DESCRIBED IN PARAGRAPH (13) OF THIS SUBSECTION NOT LESS THAN

1 10 DAYS BEFORE ANY HEARING IF THE EMPLOYEE AND THE EMPLOYEE'S
2 REPRESENTATIVE AGREE:

3 (I) TO EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE
4 EMPLOYER NOT TO DISCLOSE ANY OF THE MATERIAL CONTAINED IN THE RECORD
5 FOR ANY PURPOSE OTHER THAN TO DEFEND THE EMPLOYEE; AND

6 (II) TO PAY ANY REASONABLE CHARGE FOR THE COST OF
7 REPRODUCING THE MATERIAL INVOLVED.

8 (15) ON COMPLETION OF THE INVESTIGATION, THE EMPLOYEE SHALL BE
9 NOTIFIED OF THE NAME OF ANY WITNESS AND ALL CHARGES AND SPECIFICATIONS
10 AGAINST THE EMPLOYEE NOT LESS THAN 10 DAYS PRIOR TO ANY HEARING.

11 (B) (1) AN EMPLOYER MAY NOT INSERT ANY ADVERSE MATERIAL INTO ANY
12 FILE OF THE EMPLOYEE UNLESS THE EMPLOYEE HAS HAD THE OPPORTUNITY TO
13 REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING ON THE ADVERSE
14 MATERIAL, OR THE EMPLOYEE WAIVES THESE RIGHTS.

15 (2) AN EMPLOYEE, ON WRITTEN REQUEST, MAY HAVE ANY RECORD OF A
16 FORMAL COMPLAINT MADE AGAINST THE EMPLOYEE EXPUNGED IF:

17 (I) THE EMPLOYER HAS EXONERATED THE EMPLOYEE OF ALL
18 CHARGES, OR DETERMINED THAT THE CHARGES WERE UNSUBSTANTIATED OR
19 UNFOUNDED;

20 (II) AN ADMINISTRATIVE HEARING BOARD ACQUITS, DISMISSES, OR
21 MAKES A FINDING OF NOT GUILTY; OR

22 (III) 3 YEARS HAVE PASSED SINCE THE FINDINGS BY THE
23 EMPLOYER OR THE ADMINISTRATIVE HEARING BOARD.

24 (C) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF THE CHIEF TO
25 REGULATE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF THE
26 UNIT OR AGENCY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND
27 REASSIGNMENT WHERE THAT ACTION IS NOT PUNITIVE IN NATURE AND WHERE THE
28 CHIEF DETERMINES THAT ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL
29 MANAGEMENT OF THE UNIT OR AGENCY.

30 (D) THE PROVISIONS OF THIS SECTION DO NOT PROHIBIT THE INFORMAL
31 COUNSELING OF AN EMPLOYEE BY A SUPERVISOR IN REFERENCE TO A MINOR
32 INFRACTION OF POLICY OR PROCEDURE THAT DOES NOT RESULT IN DISCIPLINARY
33 ACTION BEING TAKEN AGAINST THE EMPLOYEE.

34 (E) THE PROVISIONS OF THIS SECTION SUPERSEDE ANY STATE, COUNTY, OR
35 MUNICIPAL LAW, ORDINANCE, OR REGULATION THAT CONFLICTS WITH THE
36 PROVISIONS OF THIS SECTION AND ANY LOCAL LEGISLATION SHALL BE PREEMPTED
37 BY THE SUBJECT AND MATERIAL OF THIS SUBTITLE.

1 (F) IF AN EMPLOYEE UNDER INVESTIGATION HAS BEEN ADVISED OF THE
2 RIGHTS PROVIDED IN THIS SECTION IN WRITING, THE EMPLOYEE MAY WAIVE ANY OF
3 THE RIGHTS BY SIGNING A WAIVER.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 2003.